

Attorney's Docket No. 841417205-CIP

COMBINED DECLARATION AND POWER OF ATTORNEY  
(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type: (check one applicable item below)

- ☐ original  
☐ design  
☐ supplemental

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do not check next item; check appropriate one of last three items.

- ☐ national stage of PCT

NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

- ☐ divisional  
☐ continuation  
☒ continuation-in-part (CIP)

INVENTORSHIP IDENTIFICATION

WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TITLE OF INVENTION  
FACET ARTHROPLASTY DEVICES AND METHODS

SPECIFICATION IDENTIFICATION

the specification of which: (complete (a), (b) or (c))

- (a) ☐ is attached hereto.  
 (b) ☒ was filed on 20 October 2000 as ☒ Serial No. 09/ 693,272  
 or ☐ Express Mail No., as Serial No. not yet known \_\_\_\_\_  
 and was amended on \_\_\_\_\_ (if applicable).

NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

- (c) ☐ was described and claimed in PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_  
 and as amended under PCT Article 19 on \_\_\_\_\_ (if any).

## ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56

*(also check the following item, if desired)*

☐ In compliance with this duty there is attached an information disclosure statement in accordance with 37 CFR 1.98.

### PRIORITY CLAIM (35 U.S.C. § 119)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

*(complete (d) or (e))*

(d) ☒ no such applications have been filed.

(e) ☐ such applications have been filed as follows.

**NOTE:** Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.

#### A. PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. S 119

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUM- BER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

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**NOTE:** *If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CIP APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. S 120.*

**POWER OF ATTORNEY**

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(List name and registration number)*

Daniel D. Ryan (29,243)  
Joseph A. Kromholz (34,204)  
John M. Manion (38,957)  
Arnold J. Ericson (16,879)

Allan O. Maki (20,623)  
Patricia Jones (46,318)  
Daniel R. Johnson (46,204)  
Laura A. Dable (46,436)

*(check the following item, if applicable)*

- ☐ Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

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SEND CORRESPONDENCE TO

DIRECT TELEPHONE CALLS TO:  
Daniel D. Ryan (262) 783-1300

RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, Wisconsin 53226-0618

PHONE CALLS  
Daniel D. Ryan (262) 783-1300

**DECLARATION**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## SIGNATURE(S)

**NOTE:** Carefully indicate the family (or last) name as it should appear on the filing receipt and all other documents.

Full name of sole or first inventor

Mark	A	Reiley
(GIVEN NAME)	(MIDDLE INITIAL OR NAME)	FAMILY (OR LAST NAME)
Inventor's signature <u><i>Mark A Reiley</i></u>		
Date <u>2/26/01</u>	Country of Citizenship <u>US</u>	
Residence <u>Piedmont, California</u>		
Post Office Address <u>304 Pala Avenue</u>		
	<u>Piedmont, California 94611</u>	

Full name of second joint inventor, if any

(GIVEN NAME)	(MIDDLE INITIAL OR NAME)	FAMILY (OR LAST NAME)
Inventor's signature _____		
Date _____	Country of Citizenship _____	
Residence _____		
Post Office Address _____		

Full name of third joint inventor, if any

(GIVEN NAME)	(MIDDLE INITIAL OR NAME)	FAMILY (OR LAST NAME)
Inventor's signature _____		
Date _____	Country of Citizenship _____	
Residence _____		
Post Office Address _____		

Full name of fourth joint inventor, if any

(GIVEN NAME)	(MIDDLE INITIAL OR NAME)	FAMILY (OR LAST NAME)
Inventor's signature _____		
Date _____	Country of Citizenship _____	
Residence _____		
Post Office Address _____		

CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S) WHICH  
FORM A PART OF THIS DECLARATION

☐ Signature for sixth and subsequent joint inventors. Number of pages added \_\_\_\_\_

\* \* \*

☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor.  
Number of pages added \_\_\_\_\_

\* \* \*

☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47.  
Number of pages added \_\_\_\_\_

\* \* \*

☒ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.

☒ Number of pages added 2

\* \* \*

☐ Authorization of attorney(s) to accept and follow instructions from representative

\* \* \*

*(If no further pages form a part of this declaration then end this declaration with this page and check the following item:)*

☐ This declaration ends with this page

**ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR DIVISIONAL, CONTINUATION OR C-I-P APPLICATION**

*(complete this part only if this is a divisional, continuation or C-I-P application)*

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S) UNDER 35 U.S.C. 120**

I hereby claim the benefit under Title 35, United States Code, S 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, S 112, I acknowledge the duty to disclose information that is material to the examination of this application, namely, information where there is substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS  
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 USC 120:**

Status  
(CHECK ONE)

U.S. APPLICATIONS	U.S. FILING DATE	Patented	Pending	Abandoned
1. 60/160,891	22 OCTOBER 1999		XX	
2. 0 /				
3. 0 /				

**PCT APPLICATIONS DESIGNATING THE U.S.**

PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NOS. ASSIGNED (if any)
4. _____		
5. _____		
6. _____		

**35 USC 119 PRIORITY CLAIM, IF ANY, FOR ABOVE LISTED U.S./PCT APPLICATIONS**

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**DETAILS OF FOREIGN APPLICATION FROM WHICH PRIORITY APPLICATION  
CLAIMED UNDER 35 USC 119**

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Above Appln. No.	Country	Application No. (day, month, year)	Date of filing	Date of issue (day, month, year)
1.				
2.				
3.				
4.				
5.				
6.				

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mark A. Reiley  
Serial No.: Unknown  
Filed: Unknown  
For: Facet Arthroplasty Devices and Methods

Group Art Unit: Unknown  
Examiner: Unknown

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN  
THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION  
(37 CFR 1.97(b))**

**NOTE:** "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

**NOTE:** The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75; and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

**IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION  
DISCLOSURE STATEMENT**

The information disclosure statement submitted herewith is being filed WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST. 37 CFR 1.97(b).

**NOTE** "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING.

**NOTE:** "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

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**CERTIFICATE OF MAILING (37 CFR 1.10)**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below as Express Mail Label No. EV317558905 in an envelope addressed as follows: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Judith Dunaway

Type or print name of person mailing paper

Date: 9/9/03

(Signature of person mailing paper)



NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.

**COPIES OF THE DOCUMENTS LISTED ON THE ATTACHED FORM PTO-1449 CAN BE FOUND IN THE FILE WRAPPER OF PARENT APPLICATION SERIAL NO. 09/693,272 FILED 20 October 2000 AND ARE THEREFORE NOT INCLUDED WITH THIS SUBMISSION.**

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 9 Sept 2003

Reg. No. 29,243

Telephone No.: (262) 783-1300

Customer No. 26308

  
\_\_\_\_\_  
Signature of Attorney of Record

Daniel D. Ryan

\_\_\_\_\_  
Type or Print Name of Attorney of Record

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